

REMARKS

The Office Action dated November 20, 2009 in the form of a Restriction Requirement has been reviewed and the Examiner's comments carefully considered. In the Office Action, the claims have been restricted under 35 U.S.C. §121 as follows:

- Group I: Claims 45-75, drawn to an ice cream and ice cream mix.
- Group II: Claims 76-80, drawn to a blend for preparing ice cream.
- Group III: Claims 81 and 82, drawn to a process for the preparation of an ice cream.

The Examiner asserts that the claims lack unity since the inventions listed in Groups I, II, and III do not relate to a single general inventive concept because they lack the same or corresponding special technical features. The Examiner states that the feature linking Groups I and III with Group II is an ice cream containing emulsifiers, fat, sugar, stabilizers, and non-fat milk solids, and the feature linking Groups I and II is an ice cream formed from a mix having a freezing point of -3.5°C or lower and comprising at least 0.2% unsaturated emulsifier. The Examiner asserts that, based on United States Patent No. 6,596,333 to Vaghela et al., both features were known in the prior art and therefore, cannot be considered special technical features for the purposes of unity of invention.

The Applicants hereby provisionally elect for further prosecution the invention of Group I, claims 45-75, drawn to an ice cream and ice cream mix.

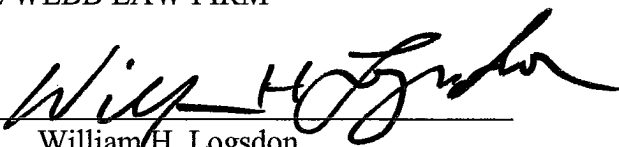
The election is made **with** traverse for the reasons set forth below.

Group I of the present invention (consisting of claims 45-75) is directed to an ice cream having a freezing point of -3.5°C or lower and comprising at least 0.2% unsaturated emulsifier. Group II (consisting of claims 76-80) is directed to a blend for preparing ice cream containing, among other ingredients, unsaturated emulsifier. Group III (consisting of claims 81 and 82) is directed to a process for preparing an ice cream having a freezing point of -3.5°C or lower and comprising at least 0.2% unsaturated emulsifier. As such, Applicants respectfully traverse the restriction of Groups I, II, and III on the grounds that the subject matter is interrelated such that a search with respect to Group I would be co-extensive with a search directed toward Groups II and III and prior art applicable to the Group I invention will likely be applicable to the Group II and III inventions.

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In view of the foregoing, withdrawal of the Restriction Requirement between Groups I, II, and III is respectfully requested. However, should the Restriction Requirement be maintained, Applicants reserve their right to file a divisional application or take such other appropriate measures as they deem necessary to protect the inventions lying within Groups II and III.

Respectfully submitted,
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